

Vessel clearances can only be obtained between 0600 hours and 1800 hours, local time. No halibut may be on board the vessel at the time of obtaining the clearance required prior to fishing in Area 4.

The clearance form for all vessel clearances obtained in person must be signed by the vessel operator. The clearance form for all vessel clearances obtained by VHF radio must be signed by the issuing officer.

Dated: May 15, 1995.

**Richard W. Surdi,**

*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*

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## 50 CFR Part 651

[Docket No. 950410096-5135-02; I.D. 050595B]

RIN 0648-AH66

### Northeast Multispecies Fishery; Exemption Supplement to Framework 9

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to modify the regulations implementing the Northeast Multispecies Fishery Management Plan (FMP). This rule allows a small mesh fishery exemption within specific areas and during specific times in the Gulf of Maine/Georges Bank (GOM/GB) Small Mesh Exemption Area and the retention and landing of skate by vessels fishing in the New York and Connecticut State Waters Winter Flounder Small Mesh Exemption Program. The Acting Director, Northeast Region, NMFS (Regional Director), has determined that these fisheries meet the exemption qualification requirements specified in § 651.20 (a)(7) and (c)(5). This rule also makes two corrections to the multispecies regulations.

**EFFECTIVE DATE:** May 15, 1995.

**ADDRESSES:** Copies of Amendment 5 to the FMP, its regulatory impact review (RIR) and the initial regulatory flexibility analysis contained within the RIR, its final supplemental environmental impact statement, and Framework Adjustment 9 and its supporting analyses are available upon request from Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906-1097.

#### FOR FURTHER INFORMATION CONTACT:

Susan A. Murphy, NMFS, Fishery Policy Analyst, 508-281-9252.

**SUPPLEMENTARY INFORMATION:** NMFS implemented an emergency interim rule on December 12, 1994 (59 FR 63926), to implement immediate protective measures to reduce fishing effort on groundfish stocks, primarily cod, haddock, and yellowtail flounder, while a more comprehensive plan amendment (Amendment 7) designed to rebuild these stocks is developed.

On the recommendation of the New England Fishery Management Council (Council), this emergency action was extended, effective March 13, 1995, through June 10, 1995 (60 FR 13078, March 10, 1995). Because the development and implementation of proposed Amendment 7 is not expected until 1996, the measures contained in the emergency action, with some modifications, were implemented on a permanent basis in Framework Adjustment 9 to the FMP (60 FR 19364, April 18, 1995). The framework action, effective April 13, 1995, superseded the emergency action. Additional measures in Framework 9, which required approval by the Office of Management and Budget under the Paperwork Reduction Act, were made effective on April 28, 1995 (60 FR 21994, May 4, 1995).

Under Framework Adjustment 9, any fishery utilizing mesh smaller than the regulated mesh size is disallowed, except for fisheries that have been determined to have a catch of less than 5 percent, by weight, of regulated species. With the implementation of Framework Adjustment 9, the Regional Director determined that several species met the 5 percent requirement and are, therefore, currently allowed under § 651.20 (a)(3), (a)(4), (c)(3), and (d)(3).

Section 651.20 (a)(7), (c)(5), and (d)(4) authorizes the Regional Director to add or delete species exemptions in the respective regulated mesh areas based on the determination that the fishery in which the species are caught meets the 5 percent criteria--after consideration of the gear used, area where the fishery occurs, and other relevant factors. Recently, several small mesh exemption proposals were submitted to the Regional Director for consideration. Of these requests, the Regional Director has a reasonable basis to determine that a seasonal small mesh fishery of specified species in two of the small mesh exemption areas proposed in the GOM/GB regulated mesh area, and an allowance for the take of one additional species, skate, in New York and Connecticut state waters in the State

Waters Winter Flounder Exemption Program, will not exceed the 5 percent bycatch allowance of regulated species.

When fishing in the two exempted subareas within the GOM/GB regulated mesh area with small mesh during the respective time frames specified, vessels may fish for the following exempted species: Butterfish, dogfish, herring, mackerel, ocean pout, scup, squid, silver hake (whiting), and red hake. Vessels fishing for the exempted species identified above may also possess and retain the following species as incidental take, with the restrictions noted: Longhorn sculpin, monkfish, and monkfish parts up to 10 percent by weight of all other species on board; and American lobster up to 10 percent by weight of all other species on board or 200 lobsters, whichever is less.

The fishing season is from July 15 through November 15 when fishing under the exemption in Small Mesh Area 1; and from January 1 through June 30 when fishing under the exemption in Small Mesh Area 2. These dates were selected based on the proposal request and were justified by an analysis of sea sampling data, commercial landings, and research vessel survey data that indicated the 5 percent criteria was met concerning the level of bycatch.

This rule also allows the possession and retention of skate as incidental take when fishing in New York and Connecticut state waters under the State Waters Winter Flounder Exemption Program.

Further, this rule makes a correction by adding squid to the exempted species list in the Mid-Atlantic region. Squid had been determined to meet the 5 percent criteria and was included as an exempted species with the implementation of the emergency interim rule (59 FR 63926, December 12, 1994), but had been inadvertently omitted in a subsequent rulemaking. This rule corrects this omission by adding squid to this list under § 651.20(d)(3).

Finally, this rule corrects the provisions exempting, under certain conditions, purse seine and mid-water trawl gear from the minimum mesh size requirements as specified under § 651.20 (e) and (f), to allow this exemption in all of the regulated mesh areas, but to require letters of authorization only in the GOM/GB and Stellwagen Bank/Jeffreys Ledge (SB/JL) regulated mesh area.

#### Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds there is good cause to waive prior notice and opportunity for comment under 5 U.S.C.

553(b)(B). Provisions under Framework Adjustment 9 give the Regional Director authority to add or delete small mesh species based on the percentage of regulated species caught. Public meetings held by the Council to discuss the management measures of Framework 9 provided full prior notice and opportunity for public comment to be made and considered, making additional opportunity for public comment unnecessary.

Because implementation of this rule relieves a restriction, there is no need to delay for 30 days the effectiveness of this regulation, 5 U.S.C. 553(d)(1).

This final rule has been determined to be not significant for purposes of E.O. 12866.

#### List of Subjects in 50 CFR Part 651

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 15, 1995.

**Gary Matlock,**

*Program Management Officer, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 651 is amended as follows:

#### PART 651—NORTHEAST MULTISPECIES FISHERY

1. The authority citation for part 651 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. In § 651.9, paragraphs (e)(14) and (e)(15) are revised to read as follows:

##### § 651.9 Prohibitions.

\* \* \* \* \*

(e) \* \* \*

(14) Fish with, use, or have available for immediate use within the area described in § 651.20(a)(1) nets of mesh whose size is smaller than the minimum mesh size specified in § 651.20(a)(2), except as provided in § 651.20 (a)(3) through (a)(6), (a)(8), (e), (f), and (j), or unless the vessel qualifies for the exception specified in paragraph (e)(1)(ii) of this section.

(15) Fail to comply with the requirements as specified in § 651.20(a)(8).

\* \* \* \* \*

3. In § 651.20, paragraphs (a)(2), (a)(6)(i), (d)(3)(i), (e), (f), and (j)(8) are revised, and paragraph (a)(8) is added to read as follows:

##### § 651.20 Regulated mesh areas and restrictions on gear and methods of fishing.

\* \* \* \* \*

(a) \* \* \*

(2) *Mesh-size restrictions.* Except as provided in paragraphs (a)(3) through (6), (a)(8), (e), (f), and (j) of this section, the minimum mesh size for any trawl net, sink gillnet, Scottish seine, or midwater trawl, on a vessel, or used by a vessel fishing in the GOM/GB regulated mesh area, shall be 6 inches (15.24 cm) diamond or square mesh throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq. ft (0.84 m<sup>2</sup>)), or to vessels that have not been issued a Federal multispecies permit and that are fishing exclusively in state waters.

\* \* \* \* \*

(6) *Transiting.* (i) Vessels fishing under the Small Mesh Exemption program and the small mesh subareas, Small Mesh Area 1/Small Mesh Area 2, specified in paragraphs (a)(3) and (a)(8) of this section may transit through the SB/JL juvenile protection area defined in paragraph (a)(5) of this section with nets on board that do not conform to the requirements specified in paragraph (a)(2) or (a)(5) of this section, provided that the nets are stowed in accordance with the provisions of paragraph (c)(4) of this section;

\* \* \* \* \*

(8) *Small Mesh Area 1/Small Mesh Area 2.* Fisheries using nets of mesh smaller than the minimum size specified in paragraph (a)(2) of this section in subareas described as Small Mesh Area 1 and Small Mesh Area 2 of the Small Mesh Exemption Area as specified under paragraph (a)(3) of this section, and defined in this paragraph (a)(8), have been found to meet the exemption qualification requirements specified in paragraph (a)(7) of this section. Therefore, vessels subject to the mesh restrictions specified in paragraph (a)(2) of this section may fish with or possess nets of mesh smaller than the minimum size specified in paragraph (a)(2) of this section in these areas, if the vessel complies with the restrictions specified in paragraphs (a)(8)(i) through (iii) of this section. These subareas are defined by straight lines connecting the following points in the order stated (see Figure 5 to part 651):

#### SMALL MESH AREA 1

Point	Latitude	Longitude	Approximate Loran C bearings
SM1 .....	43°03' N.	70°27' W.	13600 25910
SM2 .....	42°57' N.	70°22' W.	13600 25840
SM3 .....	42°47' N.	70°32' W.	13720 25840
SM4 .....	42°45' N.	70°29' W.	13710 25810
SM5 .....	42°43' N.	70°32' W.	3-mile line 25810
SM6 .....	42°44' N.	70°39' W.	13780 3-mile line
SM7 .....	42°49' N.	70°43' W.	13780 25910
SM8 .....	42°50' N.	70°41' W.	13760 25910
SM9 .....	42°53' N.	70°43' W.	13760 25935
SM10 .....	42°55' N.	70°40' W.	25935 3-mile line
SM11 .....	42°59' N.	70°32' W.	3-mile line 25910
SM1 .....	43°03' N.	70°27' W.	13600 25910

#### SMALL MESH AREA 2

Point	Latitude	Longitude	Approximate Loran C bearings
SM13 .....	43°20.3' N.	69°59.4' W.	13320 44480
SM14 .....	43°25.9' N.	69°45.6' W.	13200 44480
SM15 .....	42°49.5' N.	69°40' W.	13387.5 44298
SM16 .....	42°41.5' N.	69°40' W.	13430 44260

## SMALL MESH AREA 2—Continued

Point	Latitude	Longitude	Approximate Loran C bearings
SM17 .....	42°34.9' N.	70°00' W.	13587 44260
SM13 .....	43°20.3' N.	69°59.4' W.	13320 44480

(i) The fishing season is from July 15 through November 15 when fishing under the exemption in

(ii) The fishing season is from January 1 through June 30 when fishing under the exemption in

(iii) *Possession limit exemptions*—(A) *Exempted species*. Vessels may not fish for, possess on board, or land any species of fish other than: Butterfish, dogfish, herring, mackerel, ocean pout, scup, squid, silver hake (whiting) and red hake, except as provided under paragraph (a)(8)(iii)(B) of this section.

(B) *Allowable bycatch*. Vessels fishing for the exempted species identified in paragraph (a)(8)(iii)(A) of this section may also possess and retain the following species, with the restrictions noted, as allowable bycatch species: Longhorn sculpin (*Myoxocephalus octodecimspinosus*); monkfish and monkfish parts up to 10 percent by weight of all other species on board; and American lobster up to 10 percent by weight of all other species on board or two hundred lobsters, whichever is less.

\* \* \* \* \*

(d) \* \* \*

(3) *Exemptions*—(i) *Species exempt*. Butterfish, dogfish, herring, mackerel, ocean pout, scup, shrimp, squid, summer flounder, silver hake (whiting), weakfish, and scallops fished for in, or harvested from, the Mid-Atlantic regulated mesh area have been found to

meet the exemption qualification requirements specified in paragraph (d)(4) of this section. Therefore, vessels subject to the mesh restrictions specified in paragraph (d)(2) of this section may fish for, harvest, possess or land any of the above mentioned species with nets of mesh smaller than the minimum size specified in paragraph (d)(2) of this section in the Mid-Atlantic regulated mesh area, provided such vessels comply with the requirements specified in paragraph (d)(3)(ii) of this section.

\* \* \* \* \*

(e) *Midwater trawl gear exemption*. Fishing may take place throughout the fishing year with midwater trawl gear of mesh size less than the regulated size, provided that:

(1) Midwater trawl gear is used exclusively;

(2) When fishing under this exemption in the GOM/GB and SB/JL areas, vessels must have on board an authorizing letter issued by the Regional Director;

(3) The vessel only fishes for, possesses, or lands Atlantic herring, blueback herring, mackerel, or squid in areas south of 42°20' N. lat., and Atlantic herring, blueback herring, or mackerel in areas north of 42°20' N. lat.;

(4) The vessel does not fish for, possess, or land multispecies finfish.

(f) *Purse seine gear exemption*. Fishing may take place throughout the

fishing year with purse seine gear of mesh size less than the regulated size, provided that:

(1) Purse seine gear is used exclusively;

(2) When fishing under this exemption in the GOM/GB and SB/JL areas, vessels must have on board an authorizing letter issued by the Regional Director;

(3) The vessel only fishes for, possesses, or lands Atlantic herring, blueback herring, mackerel, or menhaden;

(4) The vessel does not fish for, possess, or land multispecies finfish.

\* \* \* \* \*

(j) \* \* \*

(8) The vessel does not fish for, possess, or land any species of fish other than winter flounder and the exempted small mesh species specified under paragraphs (a)(3)(i), (a)(8)(iii), (c)(3), and (d)(3) of this section when fishing in the areas specified under paragraphs (a)(3), (a)(8), (c)(1), and (d)(1) of this section, respectively. Vessels fishing under this exemption in New York and Connecticut state waters may also possess and retain skate as incidental take in this fishery; and

\* \* \* \* \*

4. Figure 5 to part 651 is added to part 651 to read as follows:

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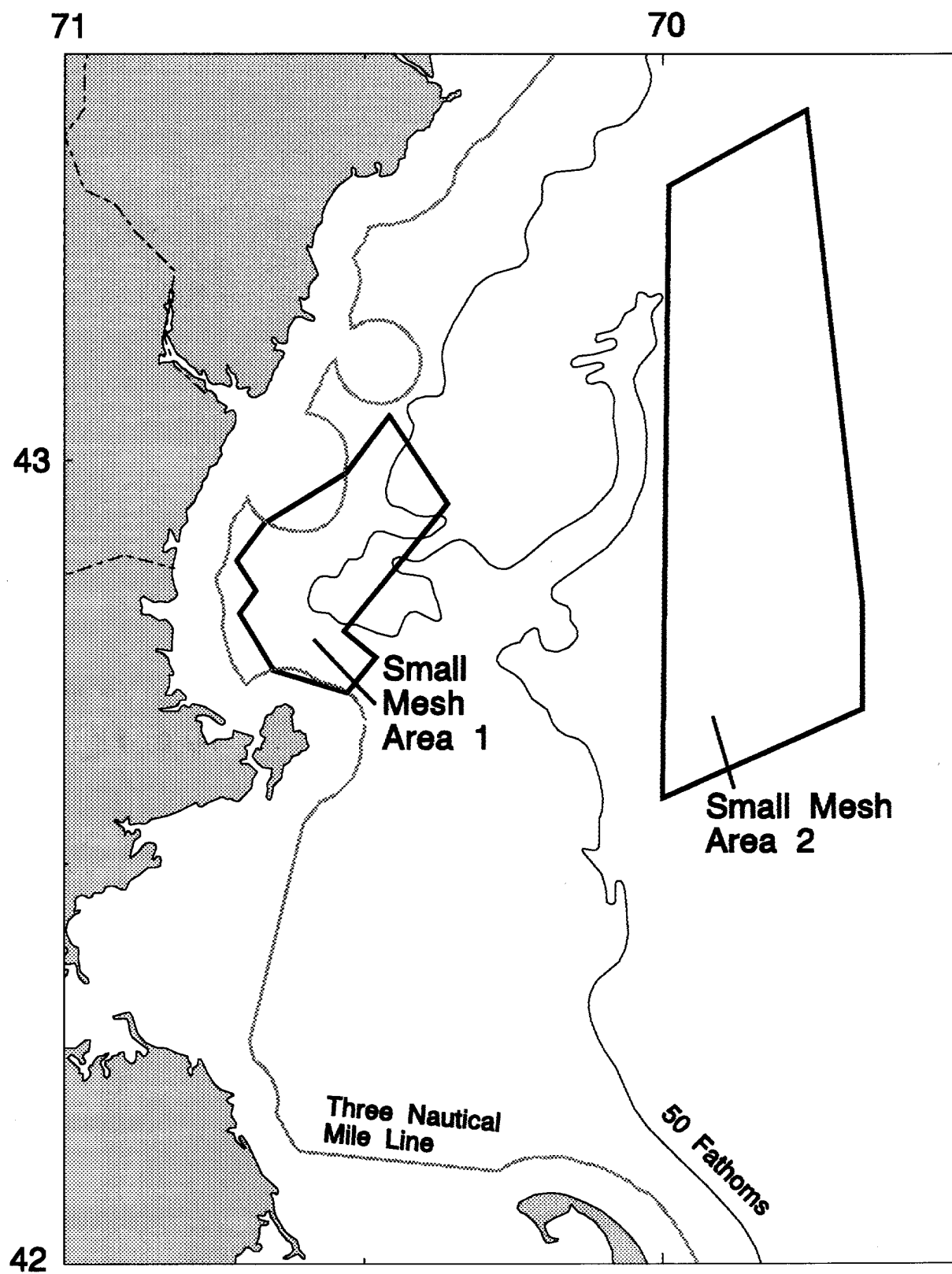


FIGURE 5 to part 651